



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 2
290 BROADWAY
NEW YORK, NEW YORK 10007-1866

August 8, 2019

VIA ELECTRONIC AND REGULAR MAIL

Nicholas M. Ward-Willis
Keane & Beane P.C.
445 Hamilton Avenue, Suite 1500
White Plains, NY 10601
nward-willis@kblaw.com

Re: *Cannistra Realty LLC v. U.S. EPA, et al.*, No. 19 Civ. 3558 (CS)
Canadian Radium and Uranium Superfund Site
Mount Kisco, Westchester County, New York

Dear Mr. Ward-Willis,

Pursuant to the settlement conference held on July 24, 2019, in the above-referenced matter, the parties have agreed as follows:

1. EPA will perform work on consecutive dates, commencing on a Sunday and continuing until investigatory activities have been completed, provided that weather so permits and barring any unforeseen complications.
2. On Sunday, EPA will work between the hours of 8:00 a.m. to 8:00 p.m. (or sunset, if sooner). The radiological survey work will commence upon arrival with the parking lot area (parking lot and street side area adjacent to sidewalk and building), commencing first, and is anticipated to be completed by 11:00 a.m. if there are no unforeseen delays. Any soil sampling performed between the hours of 11:00 a.m. and 6:00 p.m. on that day will be conducted in non-parking lot areas.
3. After completion of the radiological survey, EPA will inform Cannistra of the specific location of sampling points based on the radiological survey results. Cannistra may comment on the proposed sequencing of sampling, but EPA will not await any comments that may be provided if they are not timely submitted prior to the commencement of the soil sampling. Subject to the express limitations set forth herein, EPA will have sole discretion to determine sequencing of work.
4. EPA will resume work on Monday morning at 7:00 a.m., and may perform work in the parking lot between 7:00 a.m. and 8:00 a.m. During business hours, EPA will complete all work in non-parking lot areas before EPA finishes any work in the parking lot, barring any unforeseen complications. EPA shall use best efforts to complete all work farthest from the entrance bays before completing work in parking lot areas that are closer to the entrance bays. EPA shall keep Cannistra informed of the work schedule. Subsequent

day's work will follow the above schedule.

5. Cannistra promises to pay or reimburse overtime charges incurred by EPA relating to this work and EPA will provide Cannistra with cost documentation for said work.. Upon request of EPA, Cannistra will enter into an appropriate written agreement to facilitate this payment or reimbursement.

EPA reserves the right to request additional access or different terms of access pursuant to 42 U.S.C. § 9604(e), the present administrative order, or any future administrative order relating thereto. EPA further reserves any rights it may have to recover unreimbursed response costs incurred in connection with this work from any liable party (including, if applicable, Cannistra), where authorized by 42 U.S.C. § 9607(a). Cannistra reserves all available defenses to such additional or different requests for access and to such recovery of response costs. The parties agree that the arrangement described in this letter does not affect EPA's rights or Cannistra's rights and defenses with respect to these matters.

Thank you,

[DRAFT]

Margo B. Ludmer
Assistant Regional Counsel
New York / Caribbean Superfund Branch
EPA Region 2, Office of Regional Counsel

cc: Emily Bretz, Assistant United States Attorney (via electronic mail)